IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

MFA.No. 28 of 2000(A)

OPMV.838/1990 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM
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APPELLANT: (ADDITION PETITIONERS NO.1 & 2 IN OP.(MV)838/90
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1. **RAJU, AGED 40 YEARS, S/O. AYYAPPAN RESIDING AT MUDIKUZHIPPURAM, KAKKANAD P.O., ERNAKULAM.**

2. **KUTTAPPAN, AGED 35 YEARS, S/O. AYYAPPAN RESIDING AT MUDIKUZHIPPURAM , KAKKANAD P.O., ERNAKULAM.**

BY ADV. SRI.K.J.JOSEMON
SRI.JOSHY S.PUTHUSSERY

RESPONDENTS: (RESPONDENTS NOS. 1 AND 2 IN OP.(MV)838/90
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1. **K.K.REASAL, S/O. KHADER, THAZHATHU HOUSE, KAVUMKARA, MUVATTUPUZHA.**

2. **THE ORIENTAL INSURANCE CO.LTD., THODUPUZHA.**

BY ADV. SRI.P.JACOB MATHEW

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 02/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A.No.28 of 2000

Dated this the 2nd November, 2007.

J U D G M E N T

Admitted. Sri.Jacob Mathew, appears for the 2nd respondent, Insurance Company. Notice to first respondent dispensed with. Appeal itself is heard and disposed of.

2. Appellants are the heirs of the deceased petitioner, aged about 60 years, who sustained injuries in a motor vehicle accident on 1.12.1989. The injured filed the original petition claiming compensation. During the pendency of the proceedings, claimant died and legal representatives were impleaded. Owner and driver did not contest the matter. Insurer alone contested the matter. Negligence alleged and quantum of compensation claimed were disputed. The Tribunal found that the accident occurred due to the negligence of the driver of the vehicle. It awarded a compensation of Rs.4100/=, and directed the Insurer to pay the same. While awarding interest, the Tribunal awarded interest only from 18.10.1997, the date on which the Original Petition which once dismissed for default was restored to file. The original petition was filed on 24.5.1990. It was dismissed for

default on 28.11.1994. Subsequently, it was restored to file on 18.10.1997. I do not find any justification for disallowing interest from 24.5.1990 to 28.11.1994. So, I hold that the appellants are entitled to get interest at the rate awarded by the Tribunal from 24.5.1990 till 28.11.1994, in addition to the compensation already awarded.

In the result, the appeal is allowed, allowing the appellants to recover interest a the rate of 12% per annum, on the compensation amount of Rs.4100/=, from 24.5.1990 till 28.11.1994. The Second respondent, Insurer, is directed to pay that amount also. On deposit, the appellants can withdraw the entire amount.

K.PADMANABHAN NAIR,
JUDGE

nj.

K.PADMANABHAN NAIR, J.

M.F.A.No. 28 of 2000

J U D G M E N T

Dated: 2nd November, 2007.